

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TRUSTEES OF THE SHEET METAL WORKERS'
INTERNATIONAL ASSOCIATION LOCAL UNION
NO. 28 BENEFIT FUNDS,

Plaintiff,

- against -

METROPOLIS SHEETMETAL CONTRACTORS,
INC., METROPOLIS SHEETMETAL CORP. and THE
HANOVER INSURANCE GROUP,

Defendants.

THE HANOVER INSURANCE GROUP,

Third Party Plaintiff,

- against -

BUNKER METAL FABRICATORS, INC. and SILVIO
LUCA,

Third Party Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 11/3/15

ORDER

12 Civ. 294 (PGG) (RLE)

PAUL G. GARDEPHE, U.S.D.J.:

On April 30, 2015, this Court entered an order of default against the Defendant in the above captioned matter. (Dkt. No. 45) The matter was referred to Magistrate Judge Ronald L. Ellis for a report and recommendation ("Report") concerning damages. (Dkt. Nos. 49, 50) On August 31, 2015, Judge Ellis issued the Report (Dkt. No. 50), recommending that Third Party Plaintiff The Hanover Insurance Company ("Hanover") be awarded \$62,875.60 in damages. (Report (Dkt. No. 50) at 6) The Report also recommends that Hanover receive interest in the amount of \$19,037.16, plus additional interest to be calculated by the Clerk of the Court by

increasing the award proportionally by a rate of 9% per annum for each day from September 15, 2015 to the date of entry of judgment. (Id.)

The Report was sent to the parties on August 31, 2015. To date, neither party has filed objections to the Report. The Report recites the requirement that parties must file objections within fourteen days of service, pursuant to Fed. R. Civ. P. 72(b) and Fed. R. Civ. P. 6(a), and the consequences for failure to timely object. If clear notice has been given of the consequences of failure to object, as here, and there are no objections, the Court may adopt the report and recommendation without de novo review. See Mario v. P & C Food Mkts., Inc., 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse a failure to object and conduct de novo review if it appears that the magistrate judge may have committed plain error, see Spence v. Superintendent, Great Meadow Corr. Facility, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Report’s recommendations are adopted in their entirety and judgment will be entered against Third Party Defendant Silvio Luca as set forth below.

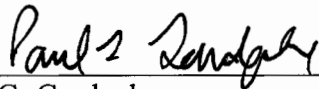
CONCLUSION

The Clerk of Court shall enter judgment against Third Party Defendant Silvio Luca for Third Party Plaintiff Hanover in the amount of \$81,912.76, plus additional interest as calculated above.

The Clerk is further directed to close this case. The parties' failure to file written objections precludes appellate review of this decision. See United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997).

Dated: New York, New York
November 2, 2015

SO ORDERED.



Paul G. Gardephe
United States District Judge